

Notice of Allowability

Application No.

10/606,325

Examiner

Hargobind S. Sawhney

Applicant(s)

VANDERSCHUIT, CARL R.

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/1/05.
2. ☒ The allowed claim(s) is/are 1-3, 11, 13, 15, 16 and 26-29.
3. ☒ The drawings filed on 25 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>4/5/05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

1. The amendment filed on February 1, 2005 has been entered. Accordingly:

- Claims 1, 3, 11, 13 and 15-17 have been amended;
- Claims 4-10, 12, 14 and 23-25 have been cancelled; and
- New claims 26-29 have been added.

2. On April 5, 2005, the examiner contacted the attorney, Mr. Anthony G. Fussner, to inform that each of the amended independent claims 1, 11, 13, 15 and 16 includes allowable subject matter. However, as detailed in the previous office action mailed on the independent November 1, 2005, Koczi (US Patent No.: 5,921,674) still meets limitations of the amended independent Claim 17, its dependent claims 18-22. The examiner discussed the amended Claim 17 in light of Koczi (US Patent No.: 5,921,674). In response, Mr. Fussner authorized an Examiner's amendment requiring the editorial corrections as detailed in section 3 of this office action. A copy of the interview summary is attached herewith.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Anthony G. Fussner on April 5, 2005.

Cancel claims 17-22; and

Claim 13 (amended), line 4, delete "and".

Allowable Subject Matter

4. Claims 1-3, 11, 13, 15, 16, and 26-29 are allowed.

The prior art of record, including Iwasa et al. (Japanese patent No.: JP 2001-11716), Koczi (US Patent No.: 5,921,674), Hanley (US Patent No.: 6,733,150 B1), Peng (US Patent No.: 5,510,961) and Polaire (US Patent No.: 6,499,145, B1), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose a lighted headwear combining:

- at least one black light source substantially enclosed within the bill, and black light being transmitted out of the bill through the black light responsive portion of the bill of a headwear as recited in claims 1 and 11; and
- a flexible tubular member coupled to the edge portion of the bill; and a light source emitting light through a light-transmissive portion of the flexible member as recited in claims 13, 15 and 16.

The above-indicated combination, including: a black-light source positioned within the bill of a headwear; and flexible tubular member coupled to the edge portion of the bill for transmitting light from a light source, makes this invention unique.

Iwasa et al. (Japanese patent No.: JP 2001-11716) discloses a headwear with a bill having a black-light source positioned on the bill surface, and the black-light source emitting light on the surface of the crown of the headwear. Iwasa et al. (Japanese patent No.: JP 2001-11716) does not teach a black-light source positioned within the bill of a headwear as claimed by the applicant. Therefore, Iwasa et al. (Japanese patent No.: JP 2001-11716) does not meet the limitations of claims 1 and 11.

Neither combined nor individual teaching of Iwasa et al. (Japanese patent No.: JP 2001-11716), Koczi ('674), Hanley ('150 B1), Peng ('961) and Polaire ('145, B1) discloses a headwear including a flexible tubular member coupled to the edge portion of the bill; and a light source emitting light through a light-transmissive portion of the flexible member as recited in claims 13, 15 and 16.

Therefore claims 1, 11, 13, 15 and 16 are allowed over prior art.

Claims 2, 3 and 26 are necessarily allowed because of their dependency on the allowed base Claim 1.

Claim 27 is necessarily allowed because of their dependency on the allowed base Claim 13.

Claim 28 is necessarily allowed because of their dependency on the allowed base Claim 15.

Claim 29 is necessarily allowed because of their dependency on the allowed base Claim 16.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on


Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 571 272 2380. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571 272 2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS
5/7/2005


Stephen Husar
Primary Examiner